IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

OP.No. 22352 of 2000(J)

PETITIONER:

THE GENERAL SECRETARY,
WAYANAD ESTATE LABOUR UNION (C.I.T.U),
VYTHIRI.P.O.,
WAYANAD DISTRICT.

BY ADV. SRI.P.K.RAMKUMAR

RESPONDENTS:
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1. THE MANAGER,
KOLERI ESTATE,
P.O.MEPPADI, WAYANAD DISTRICT.

2. THE LABOUR COURT,
KANNUR, P.O.KANNUR,
KANNUR DISTRICT.

R1 BY ADV. SRI.P.R.RAMACHANDRA MENON
R2 BY GOVERNMENT PLEADER, SRI.T.T.MUHAMOOD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 22352/2000(J)

ORDER ON CMP NO. 37652/2000 IN O.P. NO.22352 OF 2000

DISMISSED.

SD/-
3.12.07. S.SIRI JAGAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF NOTIFICATION G.O.(RT) NO.1612/99/LBR DATED 31-5-99 OF THE LABOUR AND REHABILITATION (A) DEPARTMENT.

/TRUE COPY/

P.A. TO JUDGE

JP

S.SIRI JAGAN, J.

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O.P. No. 22352 of 2000(G)

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Dated this the 3rd day of December, 2007

JUDGMENT

The Union which raised ID No.51/96 on the file of Labour Court, Kannur has come up with this original petition challenging Ext.P1 award passed by the labour court in that ID. The issues referred for adjudication are:

> "1) Whether the dismissal of Sri.Lakshmanan, P.F.No.334; Koleri Estate is justifiable?
>
> 2) If not, to what relief he is entitled?"

2. The labour court found that the workman involved in the dispute was dismissed after having been proved guilty in a validly conducted enquiry and therefore the punishment of dismissal is justifiable.

3. The contention of the petitioner is that the evidence available in the enquiry itself is sufficient to show that the case was foisted against the workman. The petitioner points out that Ext.W1 would show that WW3 had directed an employee named Chandy to take 4.5 Kgs. of Coffee to make good the balance 4.5

of Kgs. of Cofee stated to have been stolen by the workman since gunny bag already there contained only 30.5 Kgs since as per the complaint the total coffee stolen was 35 Kgs. He submits that although the person who issued Ext.W1 denied the signature in Ext.W1, he had admitted his signature in Ext.W2 seizure mahazar and according to the petitioner the 2 signatures were similar. He further submits that the case of the management was that the workman was caught red handed by the security guard while stealing 35 Kgs. from the estate whereas Ext.W2 seizure mahazar shows that the coffee was seized from the house of the workman's father. According to the counsel for the petitioner this would categorically show that the case was foisted on the workman in question.

4. The learned counsel for the management would contend that the labour court found that the management had proved the misconduct of the workman by examining sufficient witnesses who deposed to the guilt of the workman in question. The counsel for the management would contend that there is no

perversity in the findings and therefore, there is no grounds for interference by this Court.

5. However, I find that the management was not able to explain the discrepancies pointed out by the petitioner that the case of the management in the enquiry was that workman was caught red handed by the security staff while stealing the coffee and as per Ext.W2 seizure mahazar the coffee was seized from the workman's father's house. I am of the opinion that the labour court went wrong in not considering the effect of this discrepancy on the case of the management. The Labour Court also ought to have examined the similarity in signatures in Exts. W1 and W2 and how far that would affect the evidence of the management. That being so, the labour court ought to re-examine the matter and consider whether those discrepancies would go to disprove the case of the management to find in favour of the workman. Accordingly, Ext.P1 award is quashed and the labour court is directed to re-examine the matter in the light of the observations contained in this judgment. The labour court shall pass fresh

award within four months from the date of receipt of a copy of this judgment.

The original petition is disposed of as above.

Sd/-
S.SIRI JAGAN,
JUDGE

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